

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

Roger C. Fountain

(b) County of Residence of First Listed Plaintiff Collin
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

Ed Enrriquez d/b/a State Farm Agent

County of Residence of First Listed Defendant Dallas
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Ryan M. Miller, Ogletree Deakins, 8117 Preston Road, Suite 500,
Dallas, TX 75225, 214-987-3800

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input checked="" type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

47 USC 522

Brief description of cause:

Telephone Consumer Protection Act violation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 5,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6/12/2013

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING NP

JUDGE

MAG. JUD



CAUSE # SC- B-24ROGER FOUNTAIN
Plaintiff

§

In the Small Claims Court

VS

§

Precinct Three, Place Two

ED ENRIQUEZ, DBA STATE FARM AGENT
Defendant

Collin County, Texas

By Serving: ED ENRIQUEZRegistered Agent: ED ENRIQUEZ**PLAINTIFF'S STATEMENT OF CLAIM**ROGER FOUNTAIN, Plaintiff, whose Driver's License number is ** 072 and whose **MAILING**
Last 3 #'saddress is: P.O. Box 868135 PLANO TX 75086 COLLIN TX
Street City State Zip County Stateand telephone numbers are: 214-701-4531

Daytime

FAX

E-mail

ED ENRIQUEZ, DBA STATE FARM AGENT
Defendant, whose Driver's License number is ** WK and whose
Last 3 #'sPHYSICAL address is: 2351 W. NORTHWEST HWY DALLAS TX 75220
Street City State ZipDALLAS County, Texas, 214-350-7111 and is justly indebted to the Plaintiff in the sum of:
Phone Number\$ 5,000.00 plus court costs of \$ 250.00 for reason(s) of: VIOLATIONS OF THE TEXAS
STATE AND NATIONAL DO NOT CALL REGISTRIES, VIOLATIONS
OF THE TCPA, AND I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT
COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE
COURT PCT. THREE PLACE TWO OF COLLIN COUNTY, TEXAS
AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF
THE COURT

plus attorney fees if applicable.

AND there are no counterclaims existing in favor of the Defendant(s) against Plaintiff(s).

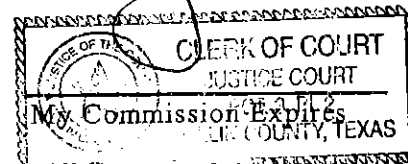
Plaintiff(s) request(s) a judgment for a sum of money against Defendant's, plus reasonable attorney fees, plus all costs of court, plus post-judgment at the highest legal rate.

Plaintiff (SIGNATURE MUST BE NOTARIZED AT COURT or PRIOR TO FILING)

On this the day, the above named person appeared and swore on an affidavit under oath that the above information set out herein is true and correct.

Subscribed to and Sworn before me this 17th day of January, 20 13.

JP 3-2 Court Clerk OR Notary Public, Collin County, Texas



CASE NO. 32SC1324

AFFIDAVIT SECTION 201 (b)

Plaintiff being duly sworn on oath deposes and says that defendant (s):

(Please check the ONE that applies, sign below as Plaintiff
and have this form Notarized)

☒ is NOT in the military.

☐ is NOT on active duty in the military and/or

☐ is NOT in a foreign country on military service.

☐ is on active military duty and/or is subject to the
Service members Civil Relief Act of 2003.

☐ defendant has waived his rights under the
Service members Civil Relief Act of 2003.

☐ military status is unknown at this time.

FILED
2013 JAN 17 AM 11:31
JUSTICE COURT
PCT. 3 PL. 2
COLLIN COUNTY, TEXAS


PLAINTIFF

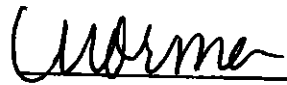
Sworn to and subscribed before me on the 17th day of January, 2013.

STATE OF TEXAS
COUNTY OF COLLIN

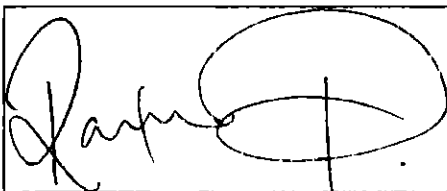
I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT
COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE
COURT PCT. THREE PLACE TWO OF COLLIN COUNTY, TEXAS
AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF
THE COURT.

NOTARY PUBLIC SIGNATURE

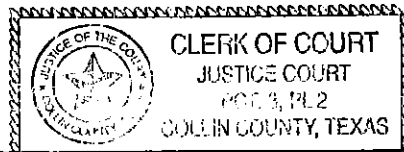
SEAL


CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

OR



CLERK OF THE COURT



CLERK SEAL

Penalty for making or using false affidavit -- a person who makes or uses an affidavit knowing it to be false, shall be fined as provided in the Title 18 United States Code, or imprisoned for not more than one year, or both.

THE STATE OF TEXAS

CITATION

TO THE DEFENDANT: **ED ENRIQUEZ DBA STATE FARM AGENT**

GREETINGS:

"YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU (OR YOUR ATTORNEY) DO NOT FILE A WRITTEN ANSWER WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF TEN DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU"

YOU ARE HEREBY COMMANDED to be and appear before me, a Justice of the Peace, in and for Precinct 3-2, Collin County, Texas, at or before Ten O'clock A.M., on the Monday next after the expiration of 10 days from the date of service hereof, then and there to answer to the petition of the plaintiff.

Type of Case: **Small Claims**
Docket Number: **32-SC-13-00024**

STYLE

Plaintiff

ROGER FOUNTAIN

**P. O. BOX 868135
PLANO, TEXAS 75086**

Represented by:

Defendant

ED ENRIQUEZ DBA STATE FARM AGENT

**2351 W NORTHWEST HWY
SUITE 3360
DALLAS, TEXAS 75220**

Represented by:

Filed on **January 17, 2013.**

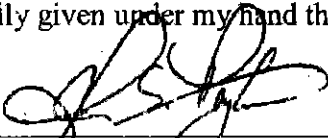
The nature of the plaintiff's demand being suit upon: See Attached Petition

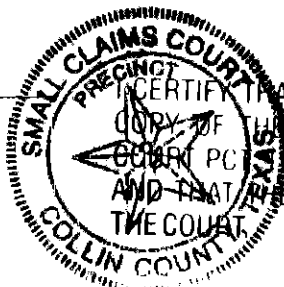
For \$ 5,000.00; 31.00 Court Costs; Attorney's fees TBD.

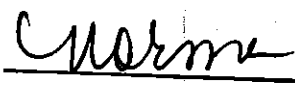
Date Citation Issued: **January 17, 2013**

Citation Placed in the Hands of: **PLAINTIFF FOR CERTIFIED MAIL/RRR SERVICE**

Officially given under my hand this 17th day of January, 2013.


JUDGE JOHN E. PAXTON
Justice Court 3-2
920 E. Park Boulevard
Suite 210
Plano, Texas 75074
972-881-3180




CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

32-SC-13-24

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

STATE FARM
ED. ENRIQUEZ
2351 W. Ninthurst Hwy
Ste 3360
DALLAS, TX 75220

2. Article Number

(Transfer from service to)

7012 3050 0000 7498 2134

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *Violeta Rodriguez* ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

1/23/13

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes☐ No

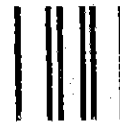
3. Service Type

☐ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Judge John Payton
Justice Court
Precinct 3, Place 2
920 E. PARK BLVD
Ste # 210
PLANO, TX 75074

2013 JAN 25 PM 2:26
COLLIN COUNTY, TEXAS
JUSTICE COURT
PCT 3 PL 2

FILED

I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE COURT PCT. THREE PLACE TWO OF COLLIN COUNTY, TEXAS AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF THE COURT.

[Signature]
CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

Eduardo R. Enriquez
State Farm Insurance Agent
2351 W Northwest Hwy Suite 3360
Dallas, TX 75220
214.263.0331 - Cell

FILED
2013 JAN 28 PM 1:51
JUSTICE COURT
PCT. 3 PL. 2
COLLIN COUNTY, TEXAS

The Honorable Judge John E. Payton
Justice Court 3-2
920 E. Park Boulevard
Suite 210
Plano, TX 75074

RE: Docket Number 32-SC-13-00024 – Plaintiff, Roger Fountain; Defendant, Ed Enriquez

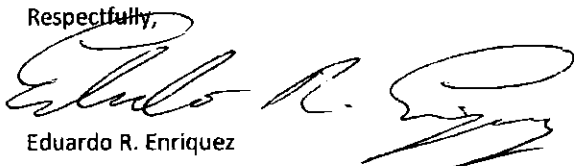
Dear Judge Payton,

I deny all allegations asserted in the Plaintiff's Statement Of Claim submitted by Mr. Roger Fountain.

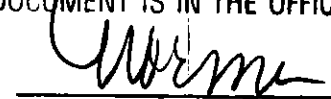
The facts associated with his frivolous claim are as follows:

- 1) Neither I nor anyone in my office called Mr. Fountain to solicit business. The Company who actually called Mr. Fountain is Instant Insurance Marketing (IIM). IIM is a telemarketing service based in Los Angeles, California (10801 National Boulevard #405 Los Angeles, CA 90064, telephone# 888.408.0252). The attached document shows an IIM representative contacted Mr. Fountain on January 09, 2013 at 10:09:57 AM.
- 2) I contacted the President of IIM, Jeff Schaffer, after receiving the citation. Mr. Schaffer will be sending me supporting documentation that shows Mr. Fountain gave permission to be contacted by third-party business partners. As per FTC Consumer Information listed on their Web site, "calls...would still be permitted, as would calls from companies with which you have an existing business relationship, or those to whom you've provided express agreement in writing to receive their calls."
- 3) A transcript of the conversation that the IIM representative had with Mr. Fountain will be provided that shows Mr. Fountain agreed to proceed with an auto Insurance quote. At which point, he was transferred to my office to commence the auto quote process. At no point did a representative from my office or I contact Mr. Fountain directly to solicit business.

Respectfully,


Eduardo R. Enriquez

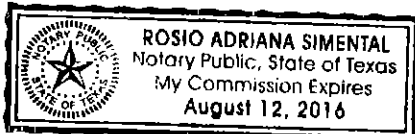
I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE COURT PCT. THREE PLACE TWO OF COLLIN COUNTY, TEXAS AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF THE COURT.



CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

State of Texas
County of Dallas

This instrument was acknowledged before me this 25th day of January, 2013, by Eduardo Enriquez
____ Personally known or he Produced Drivers Licence as identification.

{Notary Seal}




Rosio Simental
Notary Public, State of Texas

FILED

CAUSE NO. 32-SC-13-00024

Roger C. Fountain,

Plaintiff

vs.

Ed Enriquez,
d/b/a State Farm Agent,

Defendants.

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COURT PCT. THREE PLACE TWO OF COLLIN COUNTY, TEXAS
AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF
THE COURT.

In the Small Claims Court

2013 APR 15 PM 12:55

JUSTICE COURT
PCT. 3 PL. 2
COLLIN COUNTY, TEXAS

Precinct Three, Place Two

CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

Collin County, Texas

**DEFENDANT'S SPECIAL EXCEPTIONS
TO PLAINTIFF'S STATEMENT OF CLAIM**

Defendant, Ed Enriquez, files his special exceptions to Plaintiff Roger C. Fountain's
Statement of Claim, and respectfully states as follows:

I.

LEGAL AUTHORITY

1. Under Texas Rules of Civil Procedure 90 and 91, special exceptions are the proper means for challenging the sufficiency of a plaintiff's pleadings. *Friesenhahn v. Ryan*, 960 S.W.2d 656, 658 (Tex. 1998); *Adams v. First Nat'l Bank of Bells/Savoy*, 154 S.W.3d 859, 876 (Tex.App.—Dallas 2005, no pet.). The purpose of special exceptions is to inform the opposing party of defects in its pleadings so the party can cure them, if possible, by amendment. *Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 897 (Tex. 2000). "The purpose of special exceptions is to furnish the adverse party a medium by which to force clarification of pleadings when they are not clear or sufficiently specific." *Villarreal v. Martinez*, 834 S.W.2d 450, 451 (Tex.App.—Corpus Christi 1992, no writ). If the plaintiff cannot cure the defect by amendment, the Court may dismiss the claims with prejudice. See *Joseph E. Seagram & Sons, Inc. v. McGuire*, 814 S.W.2d 385, 385–86 (Tex. 1991); *Hickman v. Myers*, 632 S.W.2d 869, 869–

70 (Tex. App.—Fort Worth 1982, writ ref'd n.r.e.). The court is not required to give the plaintiff an opportunity to amend if the pleading defect is one that cannot be cured by amendment (e.g., a pleading asserts an unrecognized cause of action). *Mowbray v. Avery*, 76 S.W.3d 663, 678. Defendant asks the Court to sustain its special exceptions and dismiss Plaintiff's claims of "violations of Texas state and National do not call registries, violations of the TCPA, and phone harassment because they are not viable under Texas law, or, in the alternative require Plaintiff to cure all pleading defects.

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SPECIAL EXCEPTIONS

CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

Special Exception No. 1: Defendant specially excepts to Plaintiff's claim for "violations of Texas state and National do not call registries." See *Exhibit 1*, Plaintiff's Statement of Claim, p. 1. Plaintiff's Statement of Claim fails to clearly and sufficiently specify the statutes giving rise to his "do not call" claims. See *Villarreal*, 834 S.W.2d at 451. In other words, Defendant does not have sufficient information to properly defend against Plaintiff's claims. Defendant requests that the Court require Plaintiff to cure all pleading defects by specifically alleging the statutes giving rise to his claims, or in the alternative, dismiss Plaintiff's "do not call" claims if Plaintiff fails to cure.

Special Exception No. 2: Defendant specially excepts to Plaintiff's claim under the "TCPA." See *Exhibit 1*, Plaintiff's Statement of Claim, p. 1. Plaintiff's Statement of Claim fails to clearly and sufficiently specify a cause of action and, in fact, Defendant is unable to ascertain what statute Plaintiff is referencing as the "TCPA." See *Villarreal*, 834 S.W.2d at 451. Again, Defendant does not have sufficient information to properly defend against Plaintiff's claims. Defendant requests that the Court require Plaintiff to cure all pleading defects by specifically

alleging the statute giving rise to his "TCPA" claim, or in the alternative, dismiss Plaintiff's "TCPA" claim if Plaintiff fails to cure.

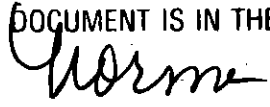
Special Exception No. 3: Defendant specially excepts to Plaintiff's claim for "phone harassment." *See Exhibit 1*, Plaintiff's Statement of Claim, p. 1. Plaintiff's Statement of Claim fails to clearly and sufficiently specify what statute gives rise to his claim for "phone harassment." *See Villarreal*, 834 S.W.2d at 451. Again, Defendant does not have sufficient information to properly defend against Plaintiff's claim. Defendant requests that the Court require Plaintiff to cure all pleading defects by specifically alleging the statute giving rise to his "phone harassment" claim, or in the alternative, dismiss Plaintiff's "phone harassment" claim if Plaintiff fails to cure.

III.

PRAYER

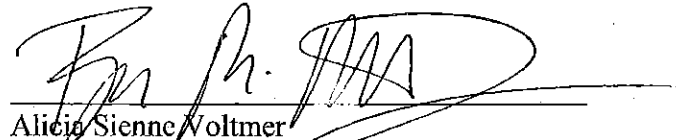
WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court sustain its special exceptions and require that Plaintiff cure all pleading defects within 5 business days, or in the alternative, if Plaintiff fails to cure all pleading defects that the Court dismiss Plaintiff's claims with prejudice. Defendant further prays that Plaintiff take nothing from his suit against Defendant, and that costs be assessed against Plaintiff. Defendant further prays for such other and further relief, general and specific, at law or in equity, to which Defendant is justly entitled.

I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE COURT PCT. THREE PLACE TWO OF COLLIN COUNTY, TEXAS AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF THE COURT.


CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

Respectfully submitted,

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.**



Alicia Sienne-Voltmer

Texas State Bar No. 06797605

Ryan M. Miller

Texas State Bar No. 24070281

8117 Preston Road, Suite 500

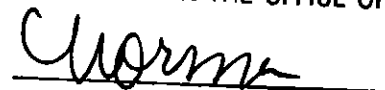
Dallas, Texas 75225

Telephone: (214) 987-3800

Fax: (214) 987-3927

ATTORNEYS FOR DEFENDANT

I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT
COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE
COURT PCT. THREE PLACE TWO OF COLLIN COUNTY, TEXAS
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THE COURT.

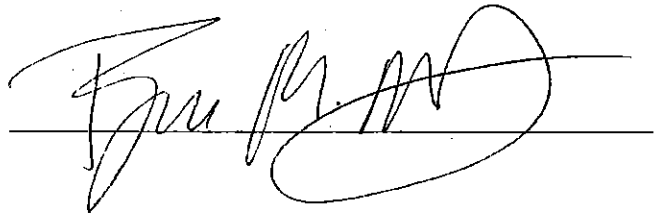


CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

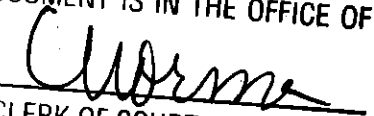
CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2013, a true and correct copy of the foregoing document has been filed with the Court and served on *pro se* Plaintiff by certified mail, return receipt requested and regular mail, as follows:

Roger C. Fountain
P.O. Box 868135
Plano, Texas 75086

A handwritten signature in black ink, appearing to read "Roger C. Fountain", is written over a horizontal line.

I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT
COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE
COURT PCT THREE PLACE TWO OF COLLIN COUNTY, TEXAS
AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF
THE COURT.

A handwritten signature in black ink is written over a horizontal line.

CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

Ogletree Deakins

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

Attorneys at Law

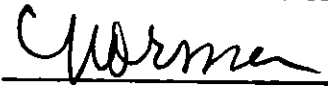
Preston Commons West
8117 Preston Road, Suite 500
Dallas, TX 75225
Telephone: 214.987.3800
Facsimile: 214.987.3927
www.ogletreedeakins.com

Ryan M. Miller
214.624.1145
ryan.miller@ogletreedeakins.com

I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT
COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE
COURT, 101 THREE PLACE TWO OF COLLIN COUNTY, TEXAS
AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF
THE COURT.

Via Federal Express

Clerk
Justice of the Peace Court, Precinct 3-2
Collin County Courthouse
920 E. Park Blvd., Suite 210
Plano, TX 75074


CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

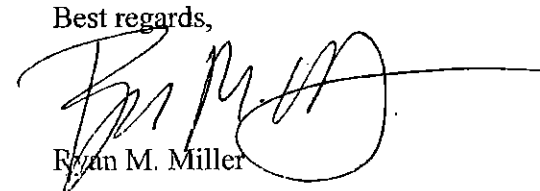
Re: *Roger C. Fountain v. Ed Enriquez dba State Farm Agent*, Case No. 32-SC-13-00024, in Small Claims Court, Precinct Three, Place Two, Collin County, Texas

Dear Clerk:

Please find enclosed the original and two copies of Defendant's Special Exceptions to Plaintiff's Statement of Claim. Please file the original among the Court's papers in this matter, and return a file-marked copy to me using the enclosed envelope.

By copy of this letter, a copy of Defendant's Special Exceptions to Plaintiff's Statement of Claim is being served on all parties in this matter as listed below.

Best regards,


Ryan M. Miller

RMM/yeb
Enclosures

cc w/Enclosure via **U.S. Mail** and **Certified Mail**, RRR # 7196 9008 9111 5161 4407:

Roger C. Fountain
P.O. Box 868135
Plano, TX 75086

From: (214) 987-3800
Yolanda E. Bables
Ogletree Deakins
8117 Preston Road, Suite 500
Dallas, TX 75225

Origin ID: TRLA



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CLERK

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Plano, TX 75074

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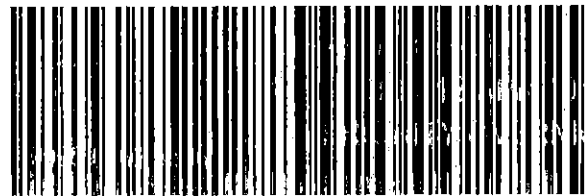
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TX-US
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AD DNEA



FOLD on this line and place in shipping pouch with bar code and delivery address visible

1. Fold the first printed page in half and use as the shipping label.
2. Place the label in a waybill pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.
3. Keep the second page as a receipt for your records. The receipt contains the terms and conditions of shipping and information useful for tracking your package.

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Chorona
CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

CASE NO: 32-SC-13-00024

ROGER FOUNTAIN
Plaintiff

vs.

ED ENRIQUEZ DBA STATE FARM AGENT
Defendant

§ IN THE SMALL CLAIMS/JUSTICE COURT

§ PRECINCT THREE, PLACE TWO

§ COLLIN COUNTY, TEXAS

**ORDER SETTING MOTION HEARING FOR
DEFENDANT'S SPECIAL EXCEPTIONS TO PLAINTIFF'S STATEMENT OF CLAIM**

The plea having been presented and duly considered, the Court is of the opinion that a hearing on same is necessary.


IT IS THEREFORE ORDERED that said Plea is set for hearing on the 3rd day of June, 2013 at 11:00 AM

in the JUSTICE COURT, PRECINCT 3, PLACE 2, COLLIN COUNTY, TEXAS, JUDGE JOHN E.

PAYTON AT 920 E. PARK BOULEVARD, SUITE 210, PLANO, TEXAS, 75074.

SIGNED this 19th day of April, 2013


JUDGE JOHN E. PAYTON
Justice of the Peace 3-2

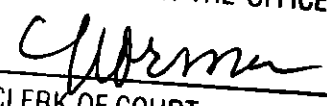

Norma, Legal Clerk
972-881-3180

Notices Mailed/Faxed To:

ROGER FOUNTAIN
PO BOX 868135
PLANO TX 75086

RYAN M. MILLER
PRESTON COMMONS WEST
8117 PRESTON ROAD
SUITE 500
DALLAS, TX 75225

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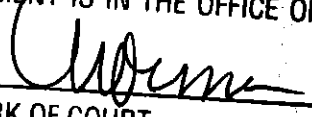

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JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

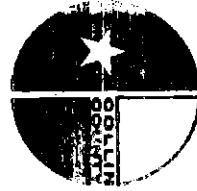


Justice Court
Precinct 3, Pct. 3-2
920 E. Park Blvd, Suite 210
Plano, Texas 75075

Ryan M. Miller
Preston Commons West
8117 Preston Road
Suite 500
Dallas TX 75225

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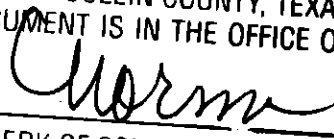

CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS



Justice Court
Precinct 3, County 2
620 E. Palm Blvd., Suite 200
Plano, Texas 75074

ROGER FOUNTAIN
PO BOX 868135
PLANO TX 75086

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THE COURT.


CLERK OF COURT
JUSTICE COURT PCT. 3-2
COLLIN COUNTY, TEXAS

AMENDED

CAUSE # SC- 13-24

ROGER FOUNTAIN
Plaintiff

VS

ED ENRIQUEZ JR STATE FARM AGENCY
Defendant

By Serving: ED ENRIQUEZ

I CERTIFY THAT THIS DOCUMENT IS A TRUE AND CORRECT COPY OF THE RECORDS OF THE JUSTICE OF THE PEACE COURT PCT THREE PLACE TWO OF COLLIN COUNTY, TEXAS AND THAT THE ORIGINAL DOCUMENT IS IN THE OFFICE OF THE COURT

Collin
CLERK OF COURT
JUSTICE COURT PCT 3-2
COLLIN COUNTY, TEXAS

PLAINTIFF'S STATEMENT OF CLAIM

ROGER FOUNTAIN, Plaintiff, whose TX Drivers License number is _____
State

and Social Security number is ***-**-185 and whose MAILING address is _____
last 3 numbers

P.O. Box 108,35 PLANO TX 75008
Street City State Zip

COLLIN (County) Texas, and telephone numbers are _____

214-701-4531 (Home) 214-556-3623 (FAX) rcfountain@live.com

ED ENRIQUEZ JR STATE FARM, Defendant, whose PHYSICAL address is _____

3851 W. BROADWAY WEST HWY, Ste 3360, DALLAS TX 75210
Street City State Zip

DALLAS County, Texas, 214-350-7111 and whose WK Drivers License
Phone Number State

number is ***** WK and Social Security number is ***-**-WK and is justly
last 3 numbers last 3 numbers

indebted to the Plaintiff in the sum of: \$5,000.00 plus court costs of \$ TBD

for reason(s) of VIOLATIONS OF THE TEXAS NO CALL LIST SPECIFICALLY VIOLATIONS OF THE FEDERAL DO NOT CALL REGISTRY SPECIFICALLY FAILING TO PROVIDE INTERNAL DO NOT CALL LIST/REGISTRY/GUIDELINES, 47 U.S.C. § 227(c)(5) PHONE HARASSMENT, THE TELEPHONE CONSUMER PROTECTION ACT, ETC.
INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS AND sec. 64.006 (c)(2)(vi)
plus attorney fees if applicable. 47 U.S.C. Fed-227(c)(5) sec 64.006 (c)(2)(i)
sect 227

Plaintiff (SIGNATURE MUST BE NOTARIZED AT COURT or PRIOR TO FILING)

On this the day, the above named person appeared and swore on an affidavit under oath that the above information set out herein is true and correct.

Subscribed to and Sworn before me this 3rd day of June

[Signature]
JP 3-2 Court Clerk OR Notary Public, Collin County, Texas

My Commission Expires _____

